

BILL ANALYSIS

C.S.S.B. 976
By: Brimer
Pensions & Investments
Committee Report (Substituted)

BACKGROUND AND PURPOSE

For many years, pension systems for public employees have been created in statute rather than as stand-alone local plans. Two purposes are achieved by establishing a statutory system instead of a local plan. First, the fiscal soundness of the fund is more stable since significant changes to it must go through several processes before being finalized. Second, accountability to the taxpayer is improved due to oversight by the legislature.

This bill creates a public retirement system in municipalities with a population of 500,000 or more that has established, by municipal ordinance, a single unitary public retirement system for employees of all departments of the municipality. This bill adds a system of checks and balances to the process by which changes to certain municipal retirement systems are made to benefits and/or municipal contributions. The rules and regulations that are now in place continue to govern, except those that are in conflict with this bill and all changes will continue to be made locally.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

SECTION 1. Amends Title 109, Revised Statutes, by adding Article 6243i, as follows:

Art. 6243i. UNITARY RETIREMENT SYSTEM FOR CERTAIN MUNICIPALITIES

PART 1. GENERAL PROVISIONS

Sec. 1.01. APPLICABILITY. Provides that this section applies to a municipality with a population of 500,000 or more that on January 1, 2007 has a single unitary public retirement system established by municipal ordinance, for employees of all departments of the municipality.

Sec. 1.02. DEFINITIONS. Defines "administrative rules," "board of trustees," "governing body," "participating member," "participating retiree," "pension office," "public retirement system," "retirement fund," "rule amendment," "survivor," and "vested."

PART 2. MEMBERSHIP

Sec. 2.01. GENERAL MEMBERSHIP REQUIREMENT. Sets forth conditions under which a person is a participating member of the public retirement system. Provides that a person is not a participating member under certain circumstances. Authorizes a person to appeal a determination regarding the person's eligibility to be a participating member to the board of trustees of the public retirement system (board). Provides that a decision by the board regarding eligibility is final.

PART 3. CREDITABLE SERVICE

Sec. 3.01. TYPES OF CREDITABLE SERVICE. Requires the board to establish, by rule, the types of services for which a participating member earns credit.

Sec. 3.02. BENEFIT ELIGIBILITY BASED ON CREDITED SERVICE. Provides that a participating member's eligibility to receive a service retirement plan benefit is based on credited service at the time of retirement.

PART 4. BENEFITS

Sec. 4.01. TYPES OF BENEFITS. Provides that the types and calculations of benefits provided by the retirement system are determined in accordance with applicable laws, municipal ordinances, and administrative rules.

Sec. 4.02. AMENDMENTS INCREASING BENEFITS. Requires any amendment to the administrative rules proposed by the board that increases the benefits provided by the public retirement system to be reviewed and approved by the governing body.

Sec. 4.03. AMENDMENTS REDUCING BENEFITS. (a) Provides that only the governing body is authorized to adopt an amendment to the administrative rules that reduces a benefit provided by the retirement system.

(b) Requires the governing body, within a certain timeframe, to give notice to the board of trustees of the governing body's intention to consider and vote on an amendment to the administrative rules that would reduce a benefit.

PART 5. ADMINISTRATION

Sec. 5.01. COMPOSITION OF THE BOARD OF TRUSTEES. Sets forth the composition requirements of the board of trustees, the manner in which officers are designated, and terms for members of the board.

Sec. 5.02. BOARD POWERS AND DUTIES. (a) Requires the board to administer the public retirement system, including the retirement fund thereof.

(b) Authorizes the board to adopt amendments to the administrative rules in accordance with Sections 5.06, 5.07, 5.09, and 5.10.

Sec. 5.03. BOARD CHAIR. Requires the board to elect a chair from the membership of the board.

Sec. 5.04. QUORUM; VOTING. (a) Entitles each member of the board to one vote.

(b) Provides that seven members of the board constitute a quorum to transact the business of the board, except as provided by Subsection (c).

(c) Provides that the number of members required to constitute a quorum is reduced by the number of vacancies on the board, if there is a vacancy on the board.

Sec. 5.05. QUALIFIED ACTUARY. (a) Authorizes the board to employ a qualified actuary.

(b) Requires an actuary to be a fellow of the Society of Actuaries, or a member of the American Academy of Actuaries to be a qualified actuary.

(c) At least 30 days before the date the board of trustees adopts actuarial assumptions to be used by the public retirement system, the board must submit to the governing body a detailed report regarding the proposed actuarial assumptions. The report must include the fiscal impact of the proposed actuarial assumptions on the public retirement system.

Sec. 5.06. RULE AMENDMENTS ADOPTED BY BOARD OF TRUSTEES. (a) Sets forth conditions and exceptions under which the board is authorized to adopt amendments to the administrative rules.

(b) Provides that an amendment to the administrative rules adopted in accordance with this section become effective immediately unless otherwise provided by the amendment.

Sec. 5.07. AMENDMENTS CONCERNING CONTRIBUTIONS BY MUNICIPALITY.

(a) Sets forth conditions under which an amendment is authorized to be made to the administrative rules governing municipal contributions.

(b) Requires the board or the governing body, as applicable, to approve or reject the proposed amendment under Subsection (a)(4) of this section by the 90th day after the date the votes if the special election are canvassed.

(c) Requires the pension office to conduct a special election under Subsection (a) by secret ballot. Requires the board to canvass the vote.

(d) Provides that a person who is a participating member on the date of the special election is eligible to vote in that election.

(e) Provides that an amendment to the administrative rules becomes effective immediately on approval by the board or the governing body, as appropriate, unless otherwise provided by the proposed amendment.

(f) Authorizes only the governing body to adopt an amendment to the administrative rules that increase municipal contributions, notwithstanding Subsections (a) through (e) of this section.

Sec. 5.08. AMENDMENTS BY GOVERNING BODY IN EVENT OF FISCAL EMERGENCY. (a) Authorizes the governing body, notwithstanding Section 5.07 of this article, in the event a municipality to which this article applies has a fiscal emergency that requires an amendment to the administrative rules governing municipal contributions, to amend the administrative rules to address the emergency if the governing body takes certain actions.

(b) Requires the governing body, on the 90th day after the date an amendment under this section takes effect and for each subsequent 90-day period while the amendment is in effect, to determine whether the emergency continues to exist. Provides that if the governing body fails to determine by unanimous vote that the emergency continues to exist or if the governing body fails to vote on whether the emergency exists, the amendment automatically expires on the date the vote is taken or should have taken place, as applicable.

Sec. 5.09. AMENDMENTS INCREASING CONTRIBUTIONS BY MEMBERS. (a) Requires an amendment to the administrative rules that increases member contributions to be adopted in accordance with Section 5.07 for adopting an amendment governing municipal contributions.

(b) Authorizes an amendment made in accordance with Subsection (a) to require a participating member to contribute an amount that exceeds 10 percent of the compensation paid to the participating member for each payroll period.

Sec. 5.10. EMERGENCY, ROUTINE, OR STATUTORILY REQUIRED AMENDMENTS. (a) Authorizes the board, unless an amendment requires adoption in accordance with Section 5.07 or 5.09 of this article, to adopt emergency or routine, amendments to the administrative rules required by state or federal law if the board by unanimous vote of the members present and voting agrees that the amendment is an emergency, routine, or statutorily required amendment, and approves the amendment.

(b) Provides that an amendment adopted in accordance with this section is an automatic agenda item for the next regular meeting of the board and is subject to review or repeal by the board at that meeting.

Sec. 5.11. SEMIANNUAL MEETING OF BOARD AND GOVERNING BODY. Requires the board and the governing body, at least once every six months, to meet to review the performance of the fund and determine how to address the unfunded liabilities, if any, of the public retirement system.

SECTION 2. (a) Requires the administrative rules governing the public retirement system of a municipality to which this Act applies under Section 1.01, Article 6243i, Revised Statutes, as added by this Act, in effect on May 31, 2007, to continue in effect on and after the effective date of this Act.

(b) Makes application of Sections 4.02, 4.03, 5.06, 5.07, 5.08, 5.09, and 5.10, Article 6243i, Revised Statutes, as added by this Act, prospective.

SECTION 3. (a) Requires a board charged with administering the public retirement system to be elected or appointed as soon as practicable after the effective date of this Act.

(b) Provides that the term of membership for a person who is a member of the board or other board administering the public retirement system on the effective date of this Act expires on the date that a majority of new board members has been elected or appointed.

SECTION 4. Effective date: upon passage or September 1, 2007.

EFFECTIVE DATE

Upon passage, or, if the Act does not receive the necessary vote, the Act takes effect September 1, 2007.

COMPARISON OF ORIGINAL TO SUBSTITUTE

The substitute changes the applicability in Sec 1.01 to clarify that the legislation is applicable to only those municipalities that had a unitary retirement system as of January 1, 2007.

The original bill provided that the governing body reviewed and approved actuarial assumptions. The substitute provides that 30 days before the board of trustees adopts actuarial assumptions they give notice to the governing body in the form of a report detailing the assumptions and their fiscal impact.